

BINDING PRIVATE RULING: BPR 202

DATE: 14 August 2015

ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)
SECTION : SECTIONS 13quin AND 45(3)
SUBJECT : APPLICATION OF SECTION 13quin SUBSEQUENT TO AN INTRA-GROUP TRANSACTION UNDER SECTION 45

1. Summary

This ruling deals with whether the transferee company will be entitled to claim the section 13quin allowance for the commercial buildings on the property that will be transferred to it by way of an intragroup transaction.

2. Relevant tax laws

This is a binding private ruling issued in accordance with section 78(1) and published in accordance with section 87(2) of the Tax Administration Act No. 28 of 2011.

In this ruling references to sections are to sections of the Act applicable as at 10 June 2015 and unless the context indicates otherwise, any word or expression in this ruling bears the meaning ascribed to it in the Act.

This is a ruling on the interpretation and application of the provisions of –

- section 13quin, and
- section 45.

3. Parties to the proposed transaction

The Applicant: A private company incorporated in and a resident of South Africa. It is the holding company of Company A and Company B. Together they constitute “the group”

Company A: A private company incorporated in and a resident of South Africa

Company B: A private company incorporated in and a resident of South Africa

4. Description of the proposed transaction

Company A currently owns two properties. On one property two commercial buildings have been erected which house head office functions of the Applicant. The other property is a vacant stand.

Company A currently claims the section 13quin allowances on the two commercial buildings.

As part of a rationalisation process, the group proposes to transfer the two properties from Company A to Company B.

The transfer of the properties will constitute an “intra-group transaction” as defined in section 45 and, therefore, qualify for the relief under that section.

Company A and Company B will not agree in writing that section 45 will not apply to the disposal of the properties, as contemplated in section 45(6)(g).

5. Conditions and assumptions

This binding private ruling is not subject to any additional conditions and assumptions.

6. Ruling

The ruling made in connection with the proposed transaction is as follows:

- Company B will be deemed to be one and the same person as Company A for purposes of determining the allowance under section 13quin.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of 5 years from 10 June 2015.